

### REMARKS

Claims 1-21, 26-29 and 31-49 stand cancelled as being drawn to non-elected subject matter. Claims 22-25 and 30 are pending examination. No new claim amendments are presented at this time. Rather, reconsideration of the application is requested in view of the following remarks.

#### Claim Rejections - 35 USC § 102

Claims 22-25 and 30 stand rejected under 35 USC §102(b) over Dekker et al. (*Organometallics*, 3(9), pp. 1403-1407, 1984). The Office Action alleges that Dekker et al. disclose the ethyl ester of bromoacetic acid in dimeric form. The Office Action specifically points to Dekker's abstract on page 1403, Table II in the second column of 1404, and the "Discussion" on page 1406 in column 1 and column 2, as well as equilibria (2) on line 3.

The rejection is respectfully traversed. The cited document does not teach or suggest the features of the present invention. As such, it is insufficient to sustain the rejection.

Applicant disagrees with the position taken and submits that Dekker et al. ***did not obtain a crystal*** of  $(\text{BrZnCH}_2\text{COOC}_2\text{H}_5 \cdot \text{THF})_2$ .

As an initial matter, it is noted that the term "bromoacetic acid" is stated in the Office Action at page 3, 5<sup>th</sup> line from the bottom, and at page 6, 8<sup>th</sup> line. Applicant believe the term was intended to be read as –bromozincacetic acid--.

First, the Office Action asserts at page 4, 2<sup>nd</sup> line from the bottom "...the reagents (i.e., the ethyl reagent) are formed and isolated in solid form."

Reference is made to Dekker et al. at page 1404, column 1, "Preparation of the Reagent". Applicant acknowledges that a tert-butyl reagent and an ethyl reagent were obtained in solid forms.

However, for the ethyl reagent, Dekker et al. states: "For the ethyl reagent this [Applicant's notation: isolation] was done by evaporation of the solvent (yield 75%)" (Emphasis added). On the other hand, for the tert-butyl agent, Dekker et al. states "tert-butyl reagent was isolated by concentrating the supernatant liquid, after which [Applicant's notation: isolation] the reagent crystallized" (Emphasis added).

Accordingly, Dekker et al. obtained the ethyl reagent as a solvent-free solid isolation but **not as a crystal**. Whereas Dekker et al obtained the tert-butyl reagent as a crystal. This demonstrates that among the solid form of reagents, only the tert-butyl reagent could be obtained in a crystalline form and the ethyl reagent could not be crystallized.

Second, the Office Action goes on to allege at page 4, bottom line, to page 5: "On page 1404 in column 2, the last sentence before "Results", Dekker et al. disclose the reference, instrumentation, and program used for crystal structure determination."

Applicant submits that it is amply clear that the description of Dekker et al. on page 1404 in column 2 refers only to crystals of the tert-butyl reagent as the title of that section is "Data Collection and Structure Determination of  $(\text{BrZnCH}_2\text{COOt-bu}\cdot\text{THF})_2$ ."

Third, the Office Action further asserts at page 5, line 3, to page 6, line 8: "On page 1404 in column 3, under "Results", Dekker et al. states...[that they] have employed molecular weight measurements to determine the degree of association of the Reformatsky reagents derived from both the ethyl and the tert-butyl ester of bromoacetic acid." The Office action contends that "hence, Dekker et al. disclose the ethyl ester of bromoacetic acid in dimeric form."

Applicant acknowledges that Dekker et al. discloses a reagent of ethyl ester of bromozincacetic acid in dimeric form. However, Applicant asserts that Dekker et al. **did not obtain any crystal** of  $(\text{BrZnCH}_2\text{COOC}_2\text{H}_5\cdot\text{THF})_2$ , as discussed above.

Additionally, Dekker et al. stated in a previous journal article (*J. Chem. Soc., Chem. Commun.* (1983) pages 553-555; copy attached) which was published prior to the publication date of the cited document and related to the same two Reformatsky reagents: "In our exploration of organozinc co-ordination chemistry, we have been studying the classical Reformatsky reagent (1) derived from  $\text{BrCH}_2\text{CO}_2\text{Et}$ . Since no single crystals of this species could be obtained, this study had to be confined to the characterization of the species in solution." See page 554, column 1 (emphasis added). This supports Applicant's position that Dekker et al. has not obtained crystals of  $(\text{BrZnCH}_2\text{COOC}_2\text{H}_5\cdot\text{THF})_2$ .

In sum, Dekker's ethyl reagent did not crystallize and Dekker et al. was not able to obtain crystals of ethyl bromozincacetate according to the present invention. Only the tert-butyl reagent could be obtained in a crystalline form.

Indeed, the cited reference fails to teach or suggest the features of the claimed invention. Consequently, Dekker et al. does not anticipate the present invention. Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 22-25 and 30 under 35 USC §102(b) over Dekker et al.

In view of the foregoing, Applicant believes the pending application is in condition for allowance.

**PETITION FOR EXTENSION AND FEE AUTHORIZATION**

Applicant requests a one month extension of time for filing the within response. The Commissioner is hereby authorized to charge the fee for the extension and any other fees due or asserted to be due with this response to Deposit Account No. 04-1105.

Dated: December 19, 2008

Respectfully submitted,

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